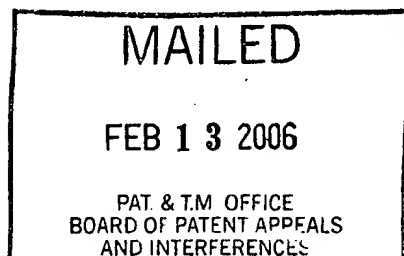




UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Fred E. McKelvey
Telephone: 571-272-9797
Facsimile: 571-273-0042



Applicants: DUMOUTIER
Application No.: 09/915,735
Filed: 07/26/01
For: Novel class II cytokine receptors and uses thereof

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,417.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/ss/ Fred E. McKelvey
FRED E. McKELVEY
Senior Administrative Patent Judge

1 The opinion in support of the decision being
2 entered today is not binding precedent of the board.

Paper 1

3
4
5 Filed by:

6
7 Fred E. McKelvey
8 Senior Administrative Patent Judge
9 Mail Stop Interference
10 P.O. Box 1450
11 Alexandria Va 22313-1450
12 Tel: 571-272-9797
13 Fax: 571-273-0042

Filed 13 February 2006

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15 UNITED STATES PATENT AND TRADEMARK OFFICE

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18 BEFORE THE BOARD OF PATENT APPEALS
19 AND INTERFERENCES
20 (Senior Administrative Patent Judge McKelvey)

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22
23 PENG LIANG,

24 Junior Party
25 (Patent 6,902,930 B2),

26
27 v.

28
29 LAURE DUMOUTIER and JEAN-CHRISTOPHE RENAULD,

30
31 Senior Party
32 (Application 09/915,735).

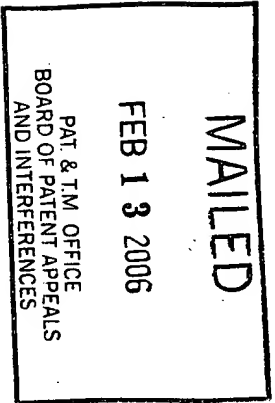
33
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35 Patent Interference 105,417 (McK)
36 Technology Center 1600

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39 **DECLARATION**
40 **37 CFR § 41.203(b)**

41
42 **Part A.**
43 **Declaration of interference**
44

45 1. An interference is declared between the above-
46 identified parties. 35 U.S.C. § 135(a); 37 CFR § 41.203(b).

47 2. Details of the application, patent, count and
48 claims designated as corresponding or as not corresponding to the
49 count appear in Parts E and F of this DECLARATION.



1 **Part B.**
2 **Judge managing the interference**

3 Senior Administrative Patent Judge McKelvey has been
4 designated to manage the interference. 37 CFR § 41.104(a).

5 **Part C.**
6 **Standing order**
7

8 1. A Trial Division STANDING ORDER (3 Jan. 2006)
9 (Paper 2) accompanies this DECLARATION.

10 2. The STANDING ORDER applies to this interference,
11 including the provisions related to Electronic Filing. See
12 ¶ 105, pages 17-20.

13 **Part D.**
14 **Initial conference call and motions lists**
15

16 Conference call

17 1. A conference call to discuss the interference is
18 set for:

19 4:00 p.m. (1600 hours Eastern time) on 10 April 2006.

20 2. The board will initiate the call.

21 Motions lists
22

23 3. On or before:

24 noon (1200 hours Eastern time) on 06 April 2006,
25

26 each party shall file, and on or before:
27

28 5:00 p.m. (1700 hours Eastern time) on 06 April 2006,

1 each party shall serve, a notice stating the relief the party
2 requests, i.e, a motions list including motions the party seeks
3 authorization to file. 37 CFR § 41.120(a); STANDING ORDER ¶ 204,
4 (Paper 2, page 58).

5 4. The default procedure for filing and serving its
6 motions lists are to be filed before being served.

7 5. The following shall be included in any motions
8 list:

9 (1) Proposed motion for benefit must identify the
10 application(s) for which benefit will be
11 sought.

12 (2) Proposed motion to attack benefit must
13 identify the application(s) being attacked.

14 (3) Proposed motion seeking judgment against an
15 opponent based on alleged unpatentability
16 must identify the statutory basis for the
17 alleged unpatentability and:

18 (a) if based on the prior art, identify the
19 prior art;

20 (b) if based on the first paragraph of
21 35 U.S.C. § 112, identify whether
22 written description, enablement and/or
23 best mode will be the basis of the
24 proposed motion;

25 (c) if based on no interference-in-fact,
26 briefly identify the reason;

27 (d) if based on an alleged failure to comply
28 with 35 U.S.C. § 135(b), briefly
29 identify the reason;

- 1 (e) if claim correspondence is involved,
2 identify any claim to be designated as
3 corresponding or not corresponding to
4 the count;
5 (f) if a new count is to be sought, identify
6 the new count.

7
8 6. By filing before service, one party will not have
9 access to an opponent's motions list prior to filing the party's
10 motions list.

11 7. Nevertheless, the parties may mutually agree to
12 discuss and serve motions lists at any time prior to the date and
13 time motions lists are due.

14 8. A motions list shall not contain any "reservation
15 clause" whereby a party attempts to reserve a right to file
16 additional motions. Additional motions are those authorized by
17 the board consistent with the rules.

18 9. A sample schedule for taking action during the
19 motion phase appears as Form 2 (page 69) in the STANDING ORDER.

20 10. Counsel are encouraged to discuss the schedule
21 prior to the conference call and to agree, essentially consistent
22 with the sample schedule, on dates for taking action.

23 11. A typical motion period lasts approximately eight
24 (8) months.

25 12. Counsel should be prepared to justify any request
26 for a shorter or longer period.

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Part E.
Identification of the parties
Assignment of exhibit numbers
Initiating settlement discussions

Junior Party¹

Named inventor: Peng Liang, TN

Patent:² U.S. Patent 6,902,930 B2
issued 7 June 2005
based on application 10/233,873
filed 29 August 2002

Title: Human Mob-5 (IL-24) receptors and Uses
thereof

Assignee: Vanderbilt University

¹ The junior party is the party with the latest accorded priority date as set out in this DECLARATION. 37 CFR § 41.201 (definition of "Senior party"); 37 CFR § 41.207(a)(1).

² The file is an Image File Wrapper (IFW), not a paper file.
A maintenance fee is not yet due on the patent.

Senior Party³

Named inventors: Laure Dumoutier, Belgium
Jean-Christophe Renauld, Belgium

Application:⁴ Application 09/915,735
filed 26 July 2001

Title: Novel class II cytokine receptors and
uses thereof

Assignee: Ludwig Institute for Cancer Research

³ The senior party is the party with the earliest accorded priority date as set out in this DECLARATION. 37 CFR § 41.201 (definition of "Senior party"); 37 CFR § 41.207(a)(1).

⁴ The file is an Image File Wrapper (IFW), not a paper file.

Assignment of exhibit numbers
37 CFR § 41.154(c) (1)

1. The senior party is assigned exhibit numbers:
1001-1999
2. The junior party is assigned exhibit numbers:
2001-2999
3. If necessary, the board will use exhibit numbers:
3001-3999

Initiating settlement discussions
STANDING ORDER ¶ 126.1 (Paper 2, pages 40-41)

4. The senior party is responsible for initiating
settlement discussions.

1 Part F.
2 Count and claims of the parties

3 Count 1

4 A composition of matter according to claim 1 of U.S. Patent
5 6,902,930 B2

6 or

7 a composition of matter according to claim 1 (as amended on
8 1 December 2005) of application 09/915,735.

9 Liang claim 1
10

11 An isolated composition comprising a complex
12 between human IL-22R1 and human IL-20R2.

13 Dumoutier claim 1
14

15 An isolated complex comprising a human
16 interleukin-22 receptor molecule and a human
17 interleukin-20 receptor β molecule.

1 The claims of the parties are:

2 Liang 1-4

3 Dumoutier 1

4 The claims of the parties which correspond to Count 1 are:

6 Liang 1-4

7 Dumoutier 1

8 The claims of the parties which do not correspond to Count 1
9 are:⁵

11 Liang None

12 Dumoutier None

13 The parties are accorded the following priority benefit for
14 Count 1:

16 Liang: Provisional application 60/315,684,⁶
17 filed 29 August 2001

18 Dumoutier: None
19
20

⁵ A claim which does not correspond to any count is not involved in the interference within the meaning of 35 U.S.C. § 135(a).

⁶ The file is a paper file, not an Image File Wrapper (IFW) file.

1 **Part G.**
2 **Heading to be used on papers**

3
4 The following heading must be used on all papers filed in
5 this interference. STANDING ORDER ¶ 106.1.1 (Paper 2, page 20).

6 UNITED STATES PATENT AND TRADEMARK OFFICE
7
8 _____
9 BEFORE THE BOARD OF PATENT APPEALS
10 AND INTERFERENCES
11 (Senior Administrative Patent Judge McKelvey)
12
13 _____
14

15 PENG LIANG,
16
17 Junior Party
18 (Patent 6,902,930 B2),
19

20 v.

21 LAURE DUMOUTIER and JEAN-CHRISTOPHE RENAULD,
22

23 Senior Party
24 (Application 09/915,735).
25
26 _____
27

28 Patent Interference 105,417 (McK)
29 Technology Center 1600
30 _____
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Part H.

Order form for requesting file copies

1. When requesting copies of files, a party shall use
STANDING ORDER Form 4 (page 71).

2. Use of Form 4 will expedite processing of any
request.

3. A party should attach to any request for file
copies a photocopy of Part E of this DECLARATION with a
hand-drawn circle around the patents and applications for which a
copy of a file wrapper is requested.

4. The parties are advised that a single order for
files may be filled by the Office of Public Records at more than
one time, particularly in a case like the present case where both
Image File Wrapper (IFW) and paper files are involved. STANDING
ORDER ¶ 109.2 (Paper 2, pages 25-27).

Part I.

Required paragraph for affidavits and declarations

1. The board has experienced cases in which a witness has belatedly advanced reasons why the witness would be unable to appear for cross examination at a reasonable time and place in the United States.

2. Consequently, to prevent surprise and hardship to the party relying on the testimony of the witness, the following paragraph must be included on the signature page of all affidavits (including declarations) filed in this case .

STANDING ORDER ¶ 157.2 (Paper 2, pages 52-53):

In signing this affidavit (declaration), I understand that the affidavit (declaration) will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also acknowledge that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted for cross examination.

/s/ Fred E. McKelvey
FRED E. McKELVEY,
Senior Administrative Patent Judge⁷

13 February 2006
Entered at: Alexandria, VA

7 As part of board efforts under the government Paperwork Elimination Act, signatures on papers originating from the board have been phased out in favor of a completely electronic record. Consequently, in this case papers originating at the board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 CFR § 10.18 (2005).

1 Enc:

2
3 STANDING ORDER (3 Jan. 2006) (Paper 2)
4 NOTICE OF REQUEST FOR ASSISTANCE ON TECHNOLOGY
5 and ORDER (Paper 3)
6

7 The following additional documents (1) are provided to
8 permit the parties to gain an early appreciation of the nature of
9 the interference and (2) do not constitute complete copies of any
10 file. They are not part of the record of the interference and
11 cannot be relied upon in the future merely because they are
12 enclosed with this DECLARATION. If a party would like any of the
13 following documents considered in the interference, the party
14 should make the document an exhibit and offer the exhibit in
15 evidence.
16

- 17 (1) Form 850 (received at the board on 12 January 2005)
- 18 (2) Bibliographic data sheets
- 19 (3) Dumoutier Patent Assignment Abstract of Title
- 20 (4) Dumoutier claim 1 as amended 1 December 2005
- 21 (5) Application 09/915,375 (as filed)--for sequences, see
22 Response to Communication
- 23 (6) U.S. Patent 6,902,930 B2
- 24 (7) Restriction requirement entered by the examiner on
25 20 September 2002
- 26 (8) Response to Communication filed by Dumoutier on 15
27 October 2004
- 28 (9) Blumberg, Interleukin 20: Discovery, Receptor
29 Identification, and Role of Epidermal Function,
30 104 Cell 9 (2001)
- 31 (10) Kotenko, Identification of the Functional Interleukin-
32 22 (IL-22) Receptor Complex, 276 The Journal of
33 Biological Chemistry 2725 (2001)
- 34 (11) Xie, Interleukin (IL)-22, a Novel Human Cytokine That
35 Signals through the Interferon Receptor-related
36 Proteins CRF2-4 and IL-22R, 275 The Journal of
37 Biological Chemistry 31335 (2000)

1 cc (via overnight delivery with all enclosures
2 via Electronic mail with only Paper 2 and Paper 3):
3

4 Attorney for Liang
5 (real party in interest
6 Vanderbilt University):
7

8 Gwendolyn Spratt, Esq.
9 NEEDLE & ROSENBERG, P.C.
10 Suite 1000
11 999 Peachtree Street
12 Atlanta, GA 39309-3915
13

14 Tel: 678-420-9300
15 Fax: 678-420-9301
16 Email: gspratt@needlerosenberg.com
17

18
19 Attorney for Dumoutier:
20 (real party in interest
21 Ludwig Institute for Cancer Research):
22

23 Norman Hanson, Esq.
24 FULBRIGHT & JAWORSKI, LLP
25 666 Fifth Avenue
26 New York, NY 10103-3198
27

28 Tel: 212-318-3000
29 Fax: 212-318-3400
30 Email: nhanson@fulbright.com
31